Appendix I.

In the report of the New York Commission of Immigration, appointed pursuant to the provisions of chapter 210 of the Laws of 1908, "to inquire into the condition, welfare and industrial opportunities of aliens in the State of New York," submitted to the Governor on March 30, 1909, and by him transmitted to the Legislature on April 5, 1909 (printed as Senate Document No. 29), the subject of private banks is dealt with as follows by the majority of the Commission (pages 24 to 38):

"It is thus evident that the progress and development of the alien, and his assimilation, depend upon a multitude of influences, some subjective, others objective; some beneficent, others detrimental. While a continuance of the policy which has heretofore quite generally prevailed, of indifference to the welfare of the alien and that of the State in its relations to him, would, in the majority of instances, prove harmless, because of the innate moral strength and the plasticity of the alien, it is equally true that the State, as well as the alien, would derive incalculable advantage by the creation of a better environment for the alien, and by inculcating in him a feeling of trust and confidence in our institutions. This could be best accomplished by obviating a series of abuses which have been found to exist, which have been the occasion of untold suffering to the alien, and which have tended to create feelings of distrust and suspicion in him, and to accentuate a state of timidity which contributes to his aloofness from the general public. A number of these abuses will now be considered under appropriate heads.

PRIVATE BANKS.

The investigation of private banks has dealt principally with that large class of irregular, unchartered institutions conducted by individuals, partnerships and associations, which usually in conjunction with the sale of steamship tickets receive money on deposit and for transmission abroad, almost exclusively from aliens. These so-called banks, although not easy of definition, perform functions differing materially from those of the regularly chartered National or State bank, or of the well known private banker, and of the quasi-bank conducted by department stores and express companies.

Character of Banks—The large number of banks now under consideration is due to the character of the present immigration. The English, Irish, German and Scandinavian immigrant, knowing or rapidly acquiring English, largely employs existing banking facilities, and comparatively few institutions have been created for his special convenience. Ignorance of the English language and of American laws and customs among many of the more recently arrived Italians, Hungarians, Jews, Poles, Russians, Croatians, Slovaks, Greeks and Syrians has apparently given rise to these banks which especially minister to some of the primary needs of these newly arrived aliens. Hence these institutions have been called upon to do more than a banking business. The banker not only accepts deposits and transmits money to Europe, but maintains a post-office at which mail may be called for, or from which it may be forwarded, sells steamship tickets, and as a notary public prepares documents and performs legal services, and helps the alien to secure citizenship papers. He advises his client as to employment, introduces him to lodginghouse keepers, attends to the correspondence of the illiterate, acts as

interpreter, arbitrator, and becomes the custodian of documents, valuables and baggage, and renders many other gratuitous services. Some bankers conduct a well organized mail order business and furnish supplies to distant labor camps. In many instances the bank is conducted as incidental to a grocery store, saloon, barber shop or other business. These general utility centers owe their origin to persistent racial ties and predilections, naturally attracting the new comer to known and apparently sympathetic individuals, rather than to impersonal corporations. They also to some degree result from hesitancy on the part of the alien, due to pride or modesty, which deters him from entering an imposing banking office in the garb of a laborer. The clerk in an ordinary bank neither could nor would perform the numerous little, but to the alien essential, offices to which reference has been made.

The handling of steamship tickets is an important adjunct to this species of banking. While the banker entirely depends on the big banking house, through which he transmits money, he depends to almost the same degree on the steamship companies. Much of the money deposited with the banker is for the purchase of prepaid steamship tickets. In such cases, the banker by selling his customer an order for a ticket, instead of transmitting this deposit abroad, there to be used for the purchase of a ticket, saves money for his customer. Before the passage of the Employment Agency Law (chapter 432 of the Laws of 1904), the combination of bank and labor agency was common. Some bankers still conduct such agencies or have business relations with labor contractors. This but rarely occurs with Jewish bankers. The office of notary public is valuable to the banker, to whom it gives dignity, standing and authority, and attracts business of various kinds.

Number and Prosperity—It is difficult to estimate the number of these banks. In 1908, there were records of more than 500 in New York City, 40 in Buffalo, 14 in Utica, 12 in Syracuse, 10 in Rochester, 9 in Schenectady, 3 in Albany. That this was an incomplete record is shown by the testimony of the head of a banking house, who stated that nearly 1,000 correspondents in the State forwarded money to him for transmission. Many correspondents, as they are termed, confine their business to collecting money from their alien patrons and forwarding it through banking houses, express companies or by mail. There are in The City of New York three important banking houses which act as clearing houses for correspondents throughout the country.[1]

Reports have been received by the Commission from fifty bankers from various parts of the State, bonded under chapter 185 of the Laws of 1907, the aggregate of whose foreign exchange business in 1907 amounted to $16,419,821.10, and in 1908 to $10,812,315.53.[2] These represented 25 per cent. of the total number of bonded bankers and approximately 5 per cent. of the entire number of bankers in the State. Forty-four per cent. of the bankers so reporting have their own correspondents abroad and transmitted $13,844,749.50 during 1907, and $9,849,419.30 during 1908. Twenty-four per cent. transmitted through an express company the aggregate of whose business in 1907 and 1908 is shown in the Appendix.[3] Thirty-four per cent. used the three banking houses above mentioned, the aggregate of whose business is shown in the Appendix.

The United States Post-Office.—More money is transmitted abroad through these banks than is sent

[1] Appendix, XXV.
[2] Appendix, XXVI.
[3] Appendix, XXVII.

by the aliens through the post-office. In an interview the official in charge of the registry department in the New York post-office ascribes the comparatively limited use of the post-office facilities by the aliens to the following reasons. (1) He is not educated up to the use of the post-office, because he is often illiterate, and cannot fill out the necessary blanks. The post-office does not render assistance because it cannot assume the responsibility of writing names and addresses as pronounced by foreigners, which might lead to errors and complications and liability on the part of the post-office clerks. (2) Salaries paid to post-office employees are not high enough to attract men able to speak foreign languages, and the force is not large enough to enable the department to detail employees for this special work. Where post-office sub-stations are located in drug stores and like places those in charge are not thoroughly acquainted with foreign exchange and post-office technicalities, and are not permitted to issue foreign money orders. (3) Branch offices close at 8 o'clock in the evening. To keep them open for the accommodation of the alien whose working hours prevent him from utilizing the post-office at an earlier hour would require the attendance of the branch superintendent, since the money received would not be entrusted to a minor official who has not given the statutory bond. (4) Post-offices in small towns do not issue foreign money orders, and the alien being ignorant of the fact that he can, nevertheless, through the postmaster at New York transmit his money abroad, does not utilize the privilege.

Deposits.—Of the fifty banks already referred to, 44 per cent. accept money on deposit. The total amount received by them in 1907 was $2,364,464.15, and in 1908, $1,731,307.74. About 26 per cent. of these banks stated that they did not accept regular

deposits but kept small sums of money for short periods, aggregating in some instances several thousand dollars a year. A number stated that they paid interest, but none paid unless the amounts were left three months or over. The average rate of interest paid was about 2½ per cent. In 1908 interest was paid on less than one-half of the deposits. One banker testified that of $125,000 in deposits, which represented 300 or 400 accounts, less than one-tenth received interest.

The only evidence of the deposit is the bank-book, which the alien frequently leaves at the bank. Attention has been directed to the fact that unclaimed accounts are held in these banks, due in some instances to the failure of the depositor to leave his address or that of his family, and in others to the ignorance of the family that an account has been opened. The banker is under no restriction as to the manner in which the funds deposited with him are invested, and ordinarily keeps no reserve. It was found that real estate, second mortgages, and speculative securities were favored forms of investment.

Banking Methods.—A consideration by this State of the methods pursued by the banks is of especial importance, since the banking houses and express companies located here have correspondents in all parts of the country, and receive from other States large sums of money for transmission abroad. There are two classes of these banks. The first consists of those whose main business is banking of the character already described with other features as incidents. The second consists of those to which banking is a mere adjunct to some other business, the banker being virtually nothing more than a correspondent for a bank of the first class. In both there are banks which have been long established, conducted by men of excellent character and standing,

who render honest, efficient service for a reasonable compensation. Neither class is required by law to possess any capital, and is under no statutory regulation or supervision. However, by chapter 185 of the Laws of 1907 each banker, who in conjunction with his banking business conducts the sale of steamship tickets is required to give a bond of fifteen thousand dollars. Many of these banks have become insolvent, and the failures have included those of bankers who have decamped with small sums after a brief business career and of others who were indebted to the extent of hundreds of thousands of dollars after having been in business for many years.

There is a wide divergence in the methods by which the business of these bankers is carried on. One banker who does a large business, numbers and dates his letters as received and enters them with the amount of money received in his cash book; receipts are forwarded on the day that the money is received; letters are filed according to the number of the order. No distinction is made between deposit accounts for transmission and other deposits. He forwards the money with a list showing the names and addresses of those to whom the money is to be paid to his correspondents abroad, who in turn send it by posthat the money has actually reached its destination. tion. The correspondent acknowledges to the banker receipt of the money and list, and later forwards to him the postal or registered letter receipts showing that the money has actually reached its destination. The banker pastes into his book beside each entry of money received for transmission the receipt thus returned by this correspondent from Europe. An average of two per cent. is paid as in savings banks, and the depositor receives a pass-book. The rules are printed in the pass-book in the various languages of the bank's customers. This system may be con-

trasted with that of another banker who testified that when small sums were left with him he made no entry thereof in any books and did not give any pass-book or any receipt unless the depositor did not know him and asked for one. When he had a large sum on hand he sent it to a bank, otherwise he kept it in a safe in the corner of his grocery. When requested to transmit money he sent it through an express company. His business amounts to about eight thousand dollars a year.

Banking Houses and Their Correspondents.—The large banking houses bear an important relation to their correspondents, who collect money in small towns and in outlying districts and in immigrant neighborhoods. Upon application they furnish blanks containing a stub, advice and receipt to correspondents. The advice which is to be forwarded to the banking house with the money frequently contains printed upon it the name of the banking house. The stub retained by the correspondent sometimes contains this; but it never appears on the receipt given by the correspondent to the alien. The well known name of a responsible banking house is thus used to obtain the confidence of the alien, but is not a guarantee, nor any proof of agency nor a safeguard. A number of the representatives of banking houses testified that they made inquiry into the financial standing of correspondents before accepting them. While this is true in some instances, in others it appears that blanks are sent out to unknown persons upon mail applications. Correspondents are not legally the agents of the banking houses but only receive the blanks and sheets containing the current rates of exchange and make their profit based on the rate offered. Sometimes they have blanks and rates from a number of banking houses and choose the cheapest. The transmitters

of money give it to the correspondent who sends to the banking house the total amounts received by him in a given time, together with a list of those living abroad to whom the money is to be paid. In no cases does the banking house know the names of the individual senders. The correspondent gives his personal receipt to the transmitter. The banking house has no way of knowing how long the correspondent has kept the money before sending it to him for transmission. One result of this system is the great difficulty of locating the responsibility for loss or delay.

Advertising.—This plays an important part as most bankers advertise in newspapers printed in foreign languages, by which the alien is chiefly guided. Some of these newspapers claim to reject patently untrustworthy advertisements, while others accept them indiscriminately. In a few instances bankers themselves own and publish newspapers, and have every opportunity of using them for their own advantage. Some advertisements are ingenious. One bank pretended that it was a branch of a well known bank in Italy in order to attract those coming from the province where the bank was located. Quite commonly bankers to give the impression that the bank has the endorsement of the government have advertised that fifteen thousand dollars or seventy-five thousand lire have been deposited by them with the State. This latter form of advertising has been encouraged by a letter issued by a bonding company to secure business, which states:

> "If bonded by us you will be permitted to use on your letter-heads, business cards and elsewhere, as follows: This bank is bonded for $15,000 under the laws of the State of New York by ..... Bonding Company, capital and

surplus $5,000,000, the largest surety company in the world."

This is so worded that the alien reading the advertisement quite naturally believes that the capital and surplus of five million dollars belong to the bank.

Failures.—The dangers connected with this species of banking are obvious. Among the bankers who have failed there have doubtless been men of good intention. The ease with which money can be obtained and the lack of regulation make it possible for untrained, illiterate and recently arrived immigrants to embark in this business. It is easier to become a banker than to open a saloon or barber shop, or to run a push-cart, or to enter other less responsible occupations which are subject to regulation of some kind. Such bankers are apt to succumb to the temptations of speculation, of using the money entrusted to them for living expenses, and being unsophisticated in business methods frequently are themselves duped.

The Commission has endeavored to ascertain the number of failures and amounts paid by the bonding companies to retrieve losses, from September, 1907, the date of the passage of the "Wells Law," to September, 1908. This has been exceedingly difficult. A number of the absconding bankers took their books with them. Many depositors, not having pass-books, did not know the amount of their deposits. Others made no complaint, except the silent one of gathering in front of the closed bank. The record of failures of Italian bankers is more complete because Italians generally make complaint to their consulate. The losses among Jews and Slavs, though very heavy, could not be determined with any exactness because the patrons were scattered over the State

and country and did not know to whom to complain. The record, therefore, only approximates the amount of the losses sustained.

By reference to the Appendix it will be seen that for a period of one year the known liabilities of the insolvent banks amounted to $1,459,295.01, with nominal assets.[1] It is impossible, since many of these accounts are in liquidation to ascertain the actual amounts repaid. Although every one of these bankers was bonded for fifteen thousand dollars, inquiry among the bonding companies shows that but five hundred dollars has been actually repaid, although there are a number of suits pending to enforce bonds. The bonding companies almost uniformly refuse to pay until suit is brought, which is infrequent, on account of the small individual claims. Even when actions are brought unconscionable defenses are interposed, the bonding companies thus far successfully claiming that the "Wells Law" is unconstitutional. In many instances the amount lost is so small that the alien cannot afford to litigate.[2]

Legislation—Upon inquiry, ten States, including those of Ohio, Illinois and Wisconsin report no legislation whatsoever as to this species of bank. Twenty States have attempted legislation, some successfully, as in New Jersey and others inadequately.[3] In New York attempts to remedy these conditions through legislation have not been successful. In 1892 an amendment to the Banking Law prohibited any person engaged in banking within the State, and not subject to the supervision of the Superintendent of Banks, and not required to report to him,

[1] Appendix, XXVII.
[2] Appendix, XXIX.
[3] Appendix, XXXIX.

from making use of any office sign, having thereon any artificial or corporate name indicating that his place of business is a bank, or to make use of or circulate letter-heads, bill-heads, bank notes, blank receipts, certificates, circulars, or any written or printed or partly written or partly printed papers having thereon any artificial or corporate name indicating that the place of business is a bank. A penalty of one thousand dollars is imposed for a violation of these provisions. All persons in business previous to 1892 are exempt therefrom.

This law has been ineffective, and has been generally evaded by the use of the words "banker," "banking," "passage and exchange," which terms convey to the alien the same meaning as "bank."

There was no further legislation until 1907, when, because of numerous failures of small banks, chapter 185 of the Laws of 1907, known as the "Wells Law," was passed, which provided that all private bankers, who, in conjunction with the sale of steamship tickets, accept money for transmission, must file with the Comptroller a bond approved by him for fifteen thousand dollars conditioned for the faithful transmission of all money received for that purpose by the bankers. Under this law it became a misdemeanor for any person to enter into or continue in the business of banking without having filed such a bond. Drafts, money orders, and travelers' checks, issued by transatlantic companies or their duly authorized agents, or by National or State banks and trust companies, were excepted from the provisions of this act. In 1908 this act was amended by chapter 497 of the Laws of 1908, to include within its scope money received on deposit, as well as that received for transmission.

In a decision recently rendered by Mr. Justice O'Gorman, in Benvegna *vs.* United States Surety

Company, this law was declared unconstitutional on the ground that "the sixth section thereof which excludes steamship companies or their authorized agents from the operation thereof is an arbitrary discrimination in violation of the equal protection of the laws guaranteed by the Constitution." An appeal from the decision is now pending in the Appellate Division of the First Department.

A law which provides no safeguards other than a bond does not give adequate protection. In September, 1907, the records of the Comptroller's office showed 336 banks bonded under this law, of which 270 were located in Greater New York, 51 being in Brooklyn. Of the remaining 66, there were in Buffalo 10, on Long Island 7, Rochester 6, Syracuse 5, Schnectady, Utica and Geneva 4 each, Watertown 3, Albany 2, Binghamton, White Plains, Portchester and Yonkers each 2, and the remainder one each in New Rochelle, Astoria, Mount Vernon, Geneseo, etc. Although it has been shown that there were more than one thousand correspondents of bankers engaged in this business in 1908, only 212 gave bonds. Of this number 177 were located in New York City, 28 of these being in Brooklyn. Of the remaining 35, there were in Buffalo 6, Rochester 3, Syracuse 2, Utica 4, Schenectady 4, Albany 2 West Seneca 2 Yonkers 3, White Plains 2, and one each in New Rochelle Geneva Astoria, Watertown, Inwood and Woodhaven. Many unbonded bankers were found in various parts of the State.

Although the Comptroller under the act was authorized to collect five dollars for each bond filed no provision was made for the enforcement of the law. So far as known no steps have been taken by any public official to ascertain whether bankers were operating without a bond. Bankers who gave bonds have made complaint that existing conditions have occasioned hardship and discrimination.

One hundred and ninety, or about 90 per cent. of the bankers bonded in the State in 1908 gave surety company bonds. Of the number giving surety bonds no less than 75.7 per cent. were given by two companies. The price for a bond ranged from fifty to three hundred dollars, and in some cases indemnity was required, according to the bonding company's estimate of the risk. In some cases collateral security to the extent of four thousand dollars was required, and in others real estate security was exacted. One bonding company stated that in 1907 it had received four hundred applications for bonds, and had rejected 86 per cent. of them, and actually wrote but fifty-five bonds, and that in 1906, 60 per cent. of the applications were rejected by it. Several bonding companies absolutely declined to accept the risk incident to the giving of these bonds.

Recommendations.—It is apparent from this statement, that the present conditions surrounding these banks are intolerable, and that the remedy which it was sought to afford through the "Wells Law" has not only proven ineffectual, but indeed has accentuated existing evils and created new ones. The bond performs no useful function, because it is so conditioned, that an attempt at enforcement is fraught with such expense, and the rules of evidence applicable constitute such hindrances, that, owing to the comparatively small sums representing the demands of single claimants, the outlook of those sought to be benefited by the bond, is well-nigh hopeless. This is now thoroughly understood both by the banks and the surety companies, and unworthy and irresponsible bankers are in no manner deterred from embarking or continuing in the business, which appeals to the credulity of ignorant and trustful aliens, who are unable to distinguish between banks which are reliable and entitled to credit, and those which are not.

The Commission has been impressed by the fact, that although during the late financial panic a considerable number of State and national banks and trust companies went into insolvency, the depositors in those institutions suffered practically no loss, while during the same period the losses sustained by the depositors in the private banks which are now under consideration, have run into the millions. It was therefore believed that if these private banks could be placed under the control and supervision of the State Banking Department, much would be accomplished toward minimizing existing evils.

It was found, however, that a practical difficulty would be encountered by legislating generally for private banks and placing all of them under the supervision of the Banking Department. Such legislation would have included the numerous private banks in the financial centers of the State, which have existed for many years and have in the main been conducted by men of the highest integrity, and whose business is of such a nature as does not come within the scope of the Banking Department. Many of these banks carry but few deposit accounts, and then only as an incident to their general business. Deposits are not solicited by them. There are other private bankers who deal in exchange and who transmit money abroad for commercial houses, whose business, though partaking of certain aspects of banking, nevertheless varies in its general character from that of State and national banks and trust companies. To bring banks of this character within the jurisdiction of the Banking Department, is unnecessary for the protection of the alien or of any other class of the community, and, on the other hand, might interfere with the best interests of commerce.

It is obvious, therefore, that any scheme of legislation dealing with private bankers, should except

from its purview banks of the character to which reference has just been made. This could be accomplished, either by requiring of them the execution of a bond in a large penalty, say $100,000, conditioned, in the event of insolvency, for the payment of the full amount of the penalty to a receiver, assignee, or trustee, for the benefit of all depositors and persons paying money to the obligor for transmission; or, in lieu of such bond, the delivery to the Banking Department of collateral security for a like amount on like condition; or by excepting from the purview of any legislation concerning private bankers, those receiving as deposits or for transmission large sums only, viz., sums not less than five hundred dollars.

The Commission has believed that, having excepted bankers who do not actually receive money from small depositors, the remaining bankers could be placed under the control of the Banking Department, under either one of two plans:

(*a*) By prohibiting the receipt of deposits in sums of less than $500, or of money for transmission in lesser amounts than $500, except by banks or trust companies incorporated under the existing Banking Law, and subject to all of the provisions of the Banking Law; provided, however, that incorporation shall not be necessary where a bond in the penal sum of $100,000, approved as to form and sufficiency of the sureties by the Superintendent of Banks, shall have been filed, or securities for like amount, in lieu thereof, shall have been deposited with the Banking Department as hereinbefore suggested, by the person or persons engaged in conducting a private banking business. This would require of each incorporated bank a capital of not less than $25,000 where the business is transacted in a village, incorporated or unincorporated, whose

population does not exceed 2,000; of not less than $50,000 where the business is transacted in a city, village or town whose population exceeds 2,000 but does not exceed 30,000, and of not less than $100,000 when the business is transacted elsewhere.

It is believed by the Commission that the Superintendent of Banks does not regard this plan with disfavor. Such a requirement would inevitably lead to the suppression of at least 90 per cent. of all the existing private banks; and is undoubtedly a drastic measure, as to many private bankers, who, as shown, exercise a useful function.

(*b*) There is also much to be said for a less drastic plan, which is favored in part by the more responsible of the private bankers who deal largely with small depositors, and who frankly concede that careful and stringent supervision and control are imperatively demanded by the public welfare. This alternative plan involves the following features:

(1) The requirement that no firm of individual should be permitted to carry on a private banking business unless possessed of assets amounting to at least $25,000 in excess of liabilities.

(2) Those desiring to engage in the business should apply to the Banking Department for a license therefor, which should only be issued on satisfactory proof, under oath, that the applicant is possessed of the required amount of capital, and that he is of good character and reputation.

(3) If the certificate is granted, the person or persons obtaining the same should deposit with the State Banking Department, either the sum of $25,000, in cash or in securities of the kind in which savings banks are permitted to invest, or a bond in the penalty of $25,000, containing the same conditions as the $100,000 bond above referred to.

(4) The banker should file with the Banking Department quarterly reports, under oath; and at other times, whenever thereunto requested by the Banking Department, make a full disclosure of all assets and liabilities in accordance with the requirements of the Banking Department.

(5) The money or securities deposited with the Banking Department, and the money which, in case of default, might be recovered on the bond filed in lieu of such deposit, would constitute a trust fund for the benefit of depositors and those delivering money to the banker for transmission, and these classes of creditors should be entitled to preference over other creditors of the banker in the event of his insolvency.

(6) The banker failing to make a deposit of cash or securities, but who, in lieu thereof, has filed a bond, should be subject to a periodical examination by the Banking Department, the expense of which should be borne by the banker; and if, on examination, it should appear that the banker is insolvent, or that his capital is impaired, or that the further continuance of his business is deemed unsafe, the Superintendent of Banks should be authorized to take proceedings for the winding up of the business of the banker, similar to those which are provided in the case of banks now within the jurisdiction of the Banking Department.

(7) The Banking Department should be given the power to regulate the character of the business which these bankers may conduct, and of the investments in which their capital may be placed.

(8) Any false statement contained in the sworn application to do business, or in the sworn report made to the Banking Department, should be deemed to constitute perjury, and punishable as such; and

any person engaging in the business of banking, or in the receipt of deposits, or the transmission of money, without a certificate, or without having given the bond for $100,000 above specified, should be deemed guilty of a misdemeanor, and punishable by imprisonment for one year.

(9) To provide against certain features of this species of banking which are especially troublesome and annoying, a provision should be made that all money received for transmission should be forwarded within five days from its receipt, and noncompliance with this requirement should be made a misdemeanor.

(10) To meet a serious practical difficulty in making proof in an action brought against a banker on a claim based on his alleged failure to forward money received for transmission abroad, it should be provided that in such an action proof of payment to the banker for transmission abroad of a sum of money, should shift the burden of proof to the banker, who should thereupon be required to show that the money so received has in fact been paid to the person to whom it was to be transmitted. Proof by affidavit of the foreign correspondent of the banker receiving such money for transmission, verified before a United States consular officer, and having attached thereto a receipt from the post-office department, or from the person to whom such money shall have been transmitted by such foreign correspondent, evidencing the fact of transmission, should be deemed sufficient evidence to again shift the burden of proof to the plaintiff.

(11) All persons except those to whom a certificate to conduct the business of banking is issued, and except those executing the bond or depositing securities for $100,000 above referred to, who shall,

on any sign, letter-head, advertisement, or publication of any kind, use the word "bank" or "banker," or any equivalent term, in any language, in connection with any business whatsoever, should be deemed guilty of a misdemeanor.

The Commission has had a number of conferences with the Superintendent of Banks, for the purpose of securing the benefit of his experience and advice, as to the desirability and practicability of the plan thus elaborated, and found him unwilling to approve of a measure which would place these private bankers under his supervision and control, under the conditions indicated, it being his opinion that, to do so, would tend to lower the standard and reputation of the state banks now within the jurisdiction of the Banking Department, and would impose responsibilities upon the Department which he was unwilling to assume.

(*c*) There is an alternative, which the Legislature might adopt, should the plan of regulation of private bankers just outlined be approved and the opposition of the Superintendent of Banks be deemed insuperable, namely, that these private bankers be subjected to supervisory control and regulation, on the lines indicated, by the Department of Industries and Immigration, which will be the subject of further consideration in another part of this report.

II.

Hon. Edward B. Whitney (now Mr. Justice Whitney) was the only member of the Commission who disagreed with any of its findings. He presented a separate report, dealing principally with other subjects, in which, however, he referred to the subject of private banking as follows:

"While endorsing the recommendations of the Commission, apart from those connected in any way with the proposed Bureaus of Industries and Immigration, I desire to say in conclusion that those which are made under the heading of 'Private Banks' are very important, and should receive attention at this session of the Legislature. One or the other of the proposed systems should be adopted, unless some better one can be immediately devised, and they should be put under the control of the State Superintendent of Banks. The Commission found him not unnaturally loth to assume this new responsibility, but were unanimously of the opinion that his department was best and indeed the only proper State agency for effecting this important reform."

III.

Annexed to the report of the Commission on pages 193 and 194 are the following statistical tables:

Appendix XXVIII.

FAILURES OF PRIVATE BANKS WITH LIABILITIES, ASSETS AND NUMBER OF CREDITORS, SEPTEMBER 1, 1907–SEPTEMBER 1, 1908.

NAME.	Liabilities.	Assets.	Number of Creditors.	Source of Information.	Status, September, 1908.
Zotti, F.	$600,000 00	*$65,000 00	8,000	Bankruptcy court.	
Pati & Son	278,461 89	151,397 69	1,200	Bankruptcy court	Absconded.
Acritelli, P. P.	108,301 00	4,000 00	700	Bankruptcy court.	
Magnani, N.	80,000 00	Nominal.	310	Bankruptcy court	Absconded.
Zanolini, F.	80,000 00	20,000 00	....	Bankruptcy court	Absconded.
Polowe, Mogilewsky & Werner	51,629 80	.....	350	Bankruptcy court.	
Ferrara, E.	59,442 38	2,198 00	500	Bankruptcy court	Absconded.
Gotilla & Genchi	51,385 94	37,335 44	220	Italian consulate	Absconded.
Caponigri, P.	50,000 00	5,000 00	34	Bankruptcy court	Indicted.
Saggese, E.	20,000 00	6,000 00	100	Bankruptcy court	Absconded.
Avallone, E.	10,000 00	400 00	300	Bankruptcy court	Absconded.
Rosenfeld, Ed.	12,000 00	1,500 00	100	Receiver.	
Biskinty, C.	12,000 00	1,800 09	150	Bankruptcy court	Settled fifteen cents on the dollar.
Crisafi, A.	9,700 00	.....	92	Italian consulate	Absconded.
Vetromile, G. & D.	6,000 00	Nominal.	32	Bankruptcy court	Absconded.
Locicero, V.	6,000 00	Nominal.	28	From complaints and books of banker	Sentenced to one year.
Nicosia, F.	5,420 00	.....	45	Italian consulate	Sentenced to Sing Sing, two and one-half year.
Zuccaro, C.	5,000 00	.....	20	McGregor, attorney for creditors	Absconded.
Russo, A.	5,000 00	200 00	12	Bankruptcy court	Absconded.
Gagliano, A.	2,067 00	.....	10	Italian consulate	Absconded.
Bizzari, G.	2,000 00	.....	....	Italian consulate.	
Raffalowitch, F.	2,000 00	500 00	30	Rabinowitch, attorney for creditors	
Genaro, Sito	1,100 00	.....	20	Frank Wasserman, 71 Nassau street.	
Ringel, S. J.	1,000 00	.....	20	J. Friedman, attorney for banker	Absconded.
Cottone, C.	787 00	.....	6	Italian consulate	Sentenced to 3 years.
	$1,459,295 01	$295,331 13	12,279		

The figures contained in the above table can only be considered as approximate; the assets given are likely to be larger than the true assets, since in a number of cases the figures given represent the figures compiled by the receivers at the beginning of the receivership, and frequently the amount realized is much less than such estimate. The liabilities on the other hand, are often considerably greater than those presented, since in many cases the creditors do not lodge claims owing to the fact that there is no chance of their receiving their money back.

*This is cash and does not include certain leases and an interest in the Norwood Suburban Land and Home Com-

Appendix XXIX.

AVEREAGE SIZE OF CLAIMS PRESENTED IN FAILURE OF ITALIAN BANK (ACRITELLI).

Size of Claims.	No. of Claims.
5,000 [1]lire and over ($1,000 and over)	1
2,000 lire and less than 5,000 ($400 to $1,000)	15
1,000 lire and less than 2,000 ($200 to $400)	33
500 lire and less than 1,000 ($100 to $200)	41
200 lire and less than 500 ($40 to $100)	72
100 lire and less than 200 ($20 to $40)	75
50 lire and less than 100 ($10 to $20)	124
Under 50 lire (under $10)	179
Total	[2]540

[1] The lire has been valued roughly at 20 cents.
[2] The average size of the claim was $55. Of all the claims presented, 56 per cent. were for sums less than $20.

Appendix XXXIX.

SUMMARY OF LAWS IN NINETEEN STATES REGULATING PRIVATE BANKS.

Requests for information were sent to all States; thirty replies were received, ten of which—Florida, Illinois, Iowa, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Vermont and Wisconsin—stated that there was no regulation.

ALABAMA. (Laws of 1908.) *Capital*—Not less than $25,000 actually paid and employed, in towns of more than 2,500 inhabitants; $15,000 in towns of less than 2,500. *Inspection*—By bank examiner once or twice each year, if practicable. *Reports*—Two to the State Treasurer each year under oath, which shall specify in detail resources and liabilities and which shall be published in a newspaper. Special reports may be called for. *Reserve Fund*—Not to be

reduced below 15 per cent. on demand deposits, providing that three-fifths of said 15 per cent. may consist of the balance due by banks and bankers to said bank. *Penalties*—For failure to carry the specified reserve fund, within thirty days $25 for each day in excess thereof.

CALIFORNIA. (Laws of 1905.) License required, and bank is then subject to the same provisions as apply to other banks.

CONNECTICUT. (Laws of 1897.) *Bond*—$10,000 with the State Treasurer. *Deposits*—None may be received. *Signs and Advertisements*—None may be used on which appears "bank," "trust" or "savings," except by banks, trust companies and incorporated building and loan associations. *Penalties*—Fine of $1,000.

GEORGIA. (Laws of 1907.) *Inspection*—By the Bank Examiner twice each year, fee to be paid by bank and is based on its capital. Rules and regulations may from time to time be adopted by the Banking Department. *Insolvency*—Examiner shall take charge if so ordered and shall examine its affairs, and if debts cannot be fully met, a receiver shall be appointed. When in receiver's hands shall be examined at least once in six months. *Reports*—Four each year and as many others as may be called for by the Bank Examiner. *Signs*—May use banking house, bank, banker and bankers. *Penalties*—$50 for failure to report.

IDAHO. *Capital*—$10,000 in cities of not more than 2,000; $20,000 in cities of not more than 3,000; $25,000 in cities of not more than 5,000; $30,000 in cities of not more than 10,000; $50,000 in cities of not more than 20,000; and $100,000 in all cities above 25,000. If credit is impaired must be made good or liquidation proceedings may be begun. *Deposits*—

None shall be received when officers or owners of the bank know it to be insolvent. Depositors shall have prior lien on assets in case of insolvency. *Inspection*—At least once each year, and may examine bank officials under oath. *Reports*—At least two each year, to be published in the newspapers. *Penalties*—False swearing upon examination by the Bank Commissioner or his deputy shall constitute perjury; for receiving deposits when insolvent, fine not exceeding $2,000 or imprisonment not exceeding two years or both.

INDIANA. (Laws of 1907.) *Capital*—At least $10,000 invested in well assured notes, State or municipal bonds or in bank fixtures. Not more than one-third may be invested in real estate. No amount exceeding 30 per cent. of the capital stock shall be loaned to officers of the bank. *Reports*—Two annually, stating liabilities, resources and verified reports of state of bank to be published in newspapers. Special reports may be called for. Before transacting business of the bank a statement shall be filed giving name of bank, copy of articles or co-partnership if business is not conducted by an individual, names of officers, County and City, amount of capital, and showing that the aggregate net responsibility of individual members is equal to at least double the amount of capital. *Inspection*—At least once each year, and if found insolvent a receiver may be appointed. *Miscellaneous*—Printed list of all of the owners, and persons interested shall be posted in bank in plain view of customers.

KANSAS. (Laws of 1900.) *Capital*—Not less than $10,000 where population does not exceed 500; $15,000 where it does not exceed 1,000; in cities of the third class, $20,000; of the second class, $25,000; and of the first class, $50,000. *Inspection*—At least twice each year and oftener if necessary. *Name*—

Shall conform to the general banking laws except that State shall not be used. Where the word State is used, bank is subject to the Banking Commissioner. *Signs and Advertisements*—Words "private bank" shall be used and also on all stationery.

MAINE. (Laws of 1905 and 1907.) Unless authorized under the laws of the State, shall not use as part of their name or title or in designating their business "bank," "savings," "savings bank," "savings department," "trust," "trust company," "banking." For violation a fine of $1,000 or imprisonment for one year or both may be imposed.

MASSACHUSETTS. (Laws of 1906.) Bond of $15,000 conditioned for the faithful holding and transmission of money delivered for transmission to a foreign country. The bond shall be executed by two sureties possessed of property of not less than $30,000 value; the bond of a surety company may be accepted on approval of State Treasurer.

MICHIGAN. (Laws of 1907.) No person or persons may engage in business until there is filed with the County Clerk a certificate or writing to be signed by each and verified by affidavit of one of the members, setting forth full name of each and every person composing the firm, residence of each, name and style of the firm, term of partnership, and time it is to continue, and locality of the place of business, which certificate shall be kept on file in the Clerk's office as a public document, and open to inspection of any person. Violation of this provision is a misdemeanor, the maximum penalty being $1,000 fine.

MINNESOTA. (Laws of 1905 and 1907.) No person who refuses to permit the public examiner to inspect and supervise the business of his bank, as provided by the banking laws, is permitted to use the word bank as a part of the name, or in advertise-

ments or on stationery. Violation of this provision is a misdemeanor.

MISSOURI. (Laws of 1907.) *Capital*—Not less than $10,000 in cities of less than 150,000, and in other cities $100,000. *Deposits*—Where general deposits are received, banker shall not employ such funds in buying or selling lands, goods, chattels, wares or merchandise, but may dispose of all properties which come into his possession in the collection of his loans and discounts. *Reserve*—No profits shall be distributed without setting apart 20 per cent. of net profits each year until surplus equals 20 per cent. of the capital, and this shall not be diminished except for the payment of any losses which may occur after the undivided profits have first been used for the payment of such losses. *Statement*—The bank may not be opened until a sworn statement is filed with the Bank Commissioner setting forth name and places of residence of all persons interested in the business, all of whom shall be residents of the State, amount of capital invested, name under which business is to be carried on and address of place of business. Any change in ownership must be reported. *Penalties*—For violation of any provision a fine not exceeding $1,000 or imprisonment for not more than one year.

NORTH CAROLINA. (Laws of 1905.) Private banks are under supervision and regulation of the Corporation Commission. *Inspection*—At least once each year. If bank is found insolvent, examiner may retain assets until a receiver is appointed. *Reports*—Not less than four each year to the Corporation Commission, who may call for special reports.

NEW JERSEY. (Laws of 1895 and 1906.) Are under the supervision of the State Banking and Insur-

ance Department. Business may not be carried on without authorization from the Commissioner of Banks which issues only after examination. Certificate of authority shall be renewed annually. One of the firm must be a resident of the State. *Bond*—$20,000 and $5,000 additional for each branch. *Inspection*—By the Banking Department. *Reports*—Verified reports as required of incorporated banks, to be publis[illegible]l. If bank appears to be insolvent a receiver may be appointed. *Signs and Advertisements*—None indicatng a banking business shall be used by any person not authorized to do a banking business. *Transmission of Money*—Shall be within five days after the receipt. *Penalties*—Not exceeding $5,000 or imprisonment for seven years or both. For violation of provision that one member of the firm shall be a resident of the State, the penalty is a fine of $1,000.

OREGON. (Laws of 1907.) No person not coming within the provisions of the general Banking Law shall use the words "bank," "bankers," "banking house," and "trust company."

PENNSYLVANIA. (Laws of 1907.) Private banks report to and are subject to the supervision of the Commission of Banks.

RHODE ISLAND. (Laws of 1908.) No person, partnership, association, corporation, except banks, savings banks and trust companies incorporated under the laws of the State shall use any sign or circulate any written or printed paper, having thereon any words indicating that such place or office is that of a bank; neither may deposits be received or business transacted in any way to lead the public to believe that its business is that of a bank. The Bank Commissioner has authority to examine all account books, and papers, to determine if there is a viola-

tion of these provisions and a fine of $100 per day may be imposed for every day such violation may continue.

TEXAS. Only incorporated banks may use the word "bank," "banker," "banking," "trust company," "savings bank," "savings," on signs and advertisements. Private banks shall use the word "unincorporated" after the name under which the business is conducted.

VIRGINIA.. (Laws of 1908.) License of $50 on a capital of $5,000 or less, and increasing with amount of capital.

IV.

Report of Congressional Immigration Commission on the subject of Immigrant Banks, Senate Document No. 381, Sixty-first Congress, Second Session, pp. 109-111:

CHAPTER VII.

UNSOUNDNESS OF THE SYSTEM.

Evidences of Insecurity.

The danger connected with banking of this character is obvious. Reviewing the leading features as they have been outlined, the following stand out as evidence of insecurity:

1. Immigrant banks are usually unauthorized concerns, privately owned, irresponsibly managed, and seldom subject to any efficient supervision or examination.

2. They deal with a class ignorant of banking methods, distrustful of American institutions, and easily influenced by the immigrant banker.

3. The affairs of the bank and of the proprietor are, as a rule, indistinguishable. As far as legal restrictions or the demands of his patrons are concerned, the proprietor is at liberty to use the funds of the bank for his own purposes. If he is a saloonkeeper or grocer, he may make indiscriminate use of the bank deposits in the conduct of the saloon or grocery. The temptation to speculate with or to use for living expenses the funds intrusted to them has also proven the downfall of many of these bankers.

4. In general, the proprietor's investments are the only security afforded the patrons of his bank. The funds of the bank become the proprietor's personal investments, and there is no limitation as to the character or extent of these investments. They prevailingly take the form of real estate, or loans on first and second mortgages, notes and speculative enterprises. If the proprietor has no investments the patrons of the bank have no security. Neither capital nor required, and, as a rule, neither is found.

5. Men who operate these banks, particularly saloon-keepers, labor agents, grocers, and boarding bosses, are often ignorant and without any conception of the responsibility imposed. Even recently arrived immigrants find it easier to embark in the banking business than to enter other occupations which, though less responsible, are nevertheless subject to regulation. Methods employed by bankers of this class are very often loose and unbusinesslike. Such records as are kept are usually wholly inadequate and confused. Many of the immigrant bankers, notably steamship agents, advertise in a manner that is at least misleading, if not actually fraudulent and illegal.

6. Immigrant banks are radically different from other financial institutions. They are rarely savings or commercial institutions, and they cannot be considered foreign-exchange house in the true sense of the word. Their chief functions are the safe-keeping of deposits and the transmitting of money abroad, and from the nature of these functions methods have arisen which are open to serious objection.

(*a*) Evidence of the deposit of money for safe-keeping is often inadequate, useless, or entirely lacking. No reserve or other security for the depositor is required. There is absolutely no preventive or check against absconding. The amount of the deposit is usually too small to warrant the bringing of suit in case of refusal to pay. Deposits are very seldom subject to check. As a rule, they are left for safe-keeping, without any restriction, except that they are subject to withdrawal upon demand, as to the manner in which they shall be kept or to what purpose and extent they may be used by the person to whom they are intrusted.

(*b*) The purchaser of a money order receives no satisfactory evidence of his cash deposit. His receipt does not bear the name of the remitting house whose money order has been sold, nor is this house advised of the name of the purchaser. The remitting house does not assume any responsibility for its correspondents and is fully protected in case of loss or fraud through them. But for the purchaser there is no such security. It is very difficult for him or any one to fix the responsibility in case of loss or fraud. During the period which must elapse before the purchaser can hear from the payee, often as long as six weeks or two months, a dishon-

est banker has ample time to accumulate, and abscond with, a large sum of money.

Failures and Defalcations.

At the time this investigation was carried on, the immigrant banking business was not in an entirely normal condition. It had not, at that time, fully recovered from the effects of the financial panic of 1907-8. To a certain degree, however, this was fortunate, because the recent period of financial depression undoubtedly served to accentuate the evils of the system. It brought out many failures and abuses that would not otherwise have come to light. It is likely that in many cases proprietors having no dishonest intent, other than that involved in a temporary misappropriation to their own ends of the funds intrusted to their care, would have eventually settled with their creditors had they not been forced to meet the sudden and, in some instances, totally unexpected demands which were made during the course of the panic. But just here lies the reason for the condemnation of the system. Even though abuses are not intended, there are no safeguards to prevent them. The extraordinary number of failures and defalcations which have occurred in the past, and particularly during the recent depression, substantiate the conclusion that this system of banking is fundamentally unsound. There is scarcely a community in the country with an immigrant population of any proportions which has not its record of immigrant bank failures.

Occasionally a national, state, or savings bank closes its doors, but it is seldom the case that the bank's depositors lose any considerable amount by the failure. They almost always receive something, and frequently their deposits are paid in full. Upon

the failure of an irresponsible immigrant banker, however, there are seldom any funds or resources to which the creditor may have recourse. It is invariably the case with concerns operated by men of this character that failure or abscondence means disaster to hundreds of small depositors.

(19121J)

M. B. Brown Printing & Binding Co., 49-57 Park Place, N. Y.